

**LODI CITY COUNCIL
SPECIAL CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, SEPTEMBER 19, 2001**

C. CLOSED SESSION

NOTE: Items C-1 through C-4 in regard to the Closed Session matter were moved to the end of the agenda.

A. CALL TO ORDER / ROLL CALL

The Special City Council meeting of September 19, 2001 was called to order by Mayor Nakanishi at 8:00 p.m.

Present: Council Members – Hitchcock, Howard, Land, Pennino and Mayor Nakanishi

Absent: Council Members – None

Also Present: City Manager Flynn, City Attorney Hays, and City Clerk Blackston

B. INVOCATION

The invocation was given by Minister Les Kreis, Lodi Community Church.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Nakanishi.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 (a) Awards – None

D-2 (a) Mayor Nakanishi presented a proclamation to Beverly Lacy, representing The American Cancer Society, in recognition of the staff and hundreds of volunteers of The American Cancer Society for their dedication and efforts toward Making Strides Against Breast Cancer in the City of Lodi.

D-2 (b) Mayor Nakanishi presented a proclamation to Paula Fernandez, Senior Traffic Engineer, and Kurt Overmeyer, representative of the San Joaquin County Council of Governments, proclaiming the week of October 1 – 5, 2001 as “California Rideshare Week 2001.”

D-3 (a) Parks and Recreation Commissioner Ken Sasaki introduced Lyndsey Merrill, who generously donated a portion of her Bat Mitzvah monetary gifts to the Parks and Recreation youth scholarship program. Mayor Nakanishi presented a Certificate of Appreciation to thirteen-year old, Lyndsey Merrill, for her generosity in making this donation.

D-3 (b) Mayor Nakanishi presented a Certificate of Appreciation to Camille Wyatt, daughter of Dino Barengo, for his significant contributions to the winemaking industry in the greater Lodi area.

D-3 (c) Ashkon Shaahinfar, member of the Greater Lodi Area Youth Commission, acknowledged the Teen of the Month, Christopher Fulton from St. Mary’s High School, whose parents were present to accept the award on his behalf.

D-3 (d) Parks and Recreation Director Baltz introduced Kathy Grant who updated the City Council on the accomplishments of the Lodi Lake Docents. She stated that Jay Bell started the docent program in 1987. In 1998/99, the docents led 1,600 people through the nature area at Lodi Lake; in 2000 they led 3,700 individuals; and in 2001, 2,300 people. Recently the group was successful in obtaining a CalFed grant, which they hope to use for education purposes, targeting grades 7-12.

D-3 (e) Fire Chief Pretz provided information on and invited the City Council to participate in the first annual FireWalker 5K walk and pancake breakfast on October 6, 2001, at Lodi Lake.

- D-3 (f) Management Analyst Hamilton gave a report on Celebration on Central, which will be held on September 30, 2001, from 11:00 a.m. – 3:00 p.m. The event was developed last year as a means to build community pride and improve communication between service providers and potential clients.

E. CONSENT CALENDAR

Referencing Item E-3, Council Member Howard requested that City Manager Flynn report on potential additional funding sources. Mr. Flynn replied that the Human Services Agency recently indicated that they would be able to contribute \$30,000 to \$40,000 toward the project.

Council Member Howard commented that Council was recently apprised of the need for asbestos removal at this site, which is anticipated to cost \$3,500.

Council Member Hitchcock announced that she would abstain from voting on Item E-13 due to a potential conflict of interest.

In accordance with the report and recommendation of the City Manager, Council, on motion of Mayor Pro Tempore Pennino, Howard second, unanimously approved the following items hereinafter set forth **except those otherwise noted** (NOTE: Due to a potential conflict of interest, Council Member Hitchcock abstained from discussion and voting on Item E-13):

- E-1 Claims were approved in the amount of \$3,159,183.34.
- E-2 The minutes of August 14, 2001 (Shirtsleeve Session), August 15, 2001 (Regular Meeting), August 21, 2001 (Shirtsleeve Session), August 28, 2001 (Shirtsleeve Session), August 28, 2001 (Special Meeting), and September 4, 2001 (Shirtsleeve Session) were approved as written.
- E-3 "Approve plans and specifications and authorize advertisement for bids for improvements to the National Guard Armory facility, 333 N. Washington Street" was **removed from the Consent Calendar and discussed and acted upon under the Regular Calendar**.
- E-4 Approved the plans and specifications for Phase II of the Lodi Lake Pedestrian/Bicycle Trail Project, 1101 W. Turner Road, and authorized advertisement for bids.
- E-5 Adopted Resolution No. 2001-218 awarding the bid for purchase of 20,000 feet of #750kcmil 15kV XLPE concentric neutral primary underground conductor to the low bidder, Nexans Energy USA, Warrenton, VA, in the amount of \$58,308.22
- E-6 Adopted Resolution No. 2001-219 approving the purchase of a Hypac 530A nine wheel articulated rubber tire roller for the Street Division of the Public Works Department from Western Traction Company, of Pleasant Grove; and appropriated \$54,950.
- E-7 Adopted Resolution No. 2001-220 approving the upgrade of the City's main telephone system switch (PBX) and the Community Center's telephone system and awarding the bid for the purchase from SBC-Pacific Bell, of Stockton, under the terms of the competitively bid State of California CALNET contract in the estimated amount of \$48,000.
- E-8 Accepted the improvements under Type II Polymer Modified Slurry Seal, Various City Streets, 2001 contract.
- E-9 Adopted Resolution No. 2001-221 authorizing the City Manager to execute a renewal agreement with the Woodbridge Irrigation District for the use of property for the granular activated carbon filter system at Well 16, 1426 W. Century Boulevard.

- E-10 Approved City participation in the funding for the undergrounding of existing overhead facilities on Stockton Street, north of Harney Lane, and authorized the City Manager to sign the Pacific Bell request for payment on behalf of the City.
- E-11 "Adopt resolution supporting Woodbridge Irrigation District Lower Mokelumne River Restoration Program and City participation in construction (\$50,000)" was **removed from the Consent Calendar and discussed and acted upon under the Regular Calendar.**
- E-12 "Execute professional services agreement with ACRT, Inc., for a Tree Inventory and Management Software (\$44,000)" was **puled from the agenda pursuant to staff's request** (NOTE: This matter will be brought back to Council at a future Shirtsleeve Session).
- E-13 Adopted Resolution No. 2001-222 authorizing the City Manager to execute a professional services agreement with Wagstaff and Associates for the preparation of an Environmental Impact Report for Redevelopment Project No. 1. (NOTE: Due to a potential conflict of interest, Council Member Hitchcock abstained from discussion and voting on this matter.)
- E-14 Adopted Resolution No. 2001-223 approving the addendum to the contract for the Streetlight Completion Project, Phase II; and appropriated \$37,949.25 for the project.
- E-15 Adopted Resolution No. 2001-224 approving the implementation of a pilot program for a remote meter reading project; and appropriated \$28,000 for the project.
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F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Ken Sasaki stated that Lodi and Tokay High Schools will be wearing U.S. flag stickers on their football helmets throughout the rest of the season as an acknowledgment of their patriotism following the recent terrorist attacks in New York and Washington D.C. The flag stickers were made by Lustre-Cal Nameplate and purchased by Diede Construction for the teams.

G. PUBLIC HEARINGS

None.

H. COMMUNICATIONS

- H-1 On recommendation of the City's contract administrator, Insurance Consulting Associates, Inc. (ICA), and Human Resources staff, the City Council, on motion of Council Member Land, Hitchcock second, unanimously rejected the following claims:

- a) Angela Farnsworth, date of loss 6/25/00
- b) George Skatvold, date of loss 2/2/01
- c) Melodi Calloni, date of loss 7/17/01
- d) Denna Smith, date of loss weekdays

- H-2 Reports: Boards/Commissions/Task Forces/Committees – None

- H-3 The following postings/appointments were made:

- a) The City Council, on motion of Council Member Hitchcock, Pennino second, unanimously directed the City Clerk to post for the following vacancy:

East Side Improvement Committee

Mickey Woodward

Term to expire March 1, 2004

- H-4 Miscellaneous – None

I. REGULAR CALENDAR

I-1 "Adopt resolution approving Public Art Policy for the City of Lodi"

Janet Hamilton, Management Analyst II, briefly reviewed the Public Art Policy with the aid of overheads. She reported that meetings with the following groups have been held to review the policy:

- Recreation Commission – May 1, September 4
- Planning Commission – May 23
- Building Industry Association of the Delta and local developers – May 24, June 7
- Arts Commission – June 13, July 23, August 27
- City Council – Shirtsleeve Session, July 10

Theresa Yvonne, Arts Coordinator, stated that the Arts Commission and Arts Foundation support the Public Art Policy.

At the request of Council Member Hitchcock, Ms. Hamilton explained that the policy stipulates that 2% of the estimated construction costs of all eligible public projects be set aside for public art at the site. It also requires that 2% of the Development Impact Fees, as they are collected, be set aside for a public art fund. The Art Advisory Board will be represented by a member of the Arts Commission, Recreation Commission, and Planning Commission. They will be responsible for choosing artists and managing the art projects. The Arts Coordinator will serve as the City staff Liaison to the Board. The City Council will have final approval on the art projects.

City Manager Flynn briefly outlined the Public Art Policy and believed that it would benefit the City by making it a more attractive place in which to live.

Ms. Hamilton displayed overhead photographs of public art in Lodi and other cities.

Community Development Director Bartlam narrated photos of the City of Brea's public art.

Mr. Flynn explained that one of the features of using a 2% set aside from the impact fees is to create a fund where the City can turn to the private sector and offer incentives and partnerships in order to develop art. With the overall estimates that went into determining the cost estimates for the impact fees, staff believes that flexibility exists allowing for the 2% set aside. It is probable that as the City raises the standard of what is expected in the community, the 2% would automatically get built in to projects.

Council Member Howard was glad to see that the policy was amended to allow Council to make the final decision on art projects. She felt that this was important because art is interpreted differently by every individual. Things such as nudity, displays of violence, etc., need to be taken into consideration when determining what is appropriate for public art. Having final approval given by Council would allow for community involvement and discussion. Ms. Howard expressed her opinion that it is not in the best financial interest to the community to allocate 2% from the Development Impact Fees for public art. She believed that Lodi has been supporting art even without having a Public Art Policy in place. Private business owners and operators currently have the option to add and display art. She encouraged businesses, the Arts Commission, founders of Hutchins Street Square, and other representatives to continue to bring art, culture, music, and dances to the community. Vacancies exist in the downtown area for art galleries. Ms. Howard pointed out that she disagreed only with the funding source designated in the art policy. Two percent of the impact fees represents approximately \$90,000. An additional \$50,000 or more (2%) from Capital Improvement Projects has also been designated for art funding. Ms. Howard stated that she would not support the Public Art Policy due to funds being taken from development impact fees. Impact fees are designed for use in providing certain services. She preferred that art projects be brought before the Council, at which time they could decide which fund to draw the money from.

Council Member Hitchcock commented that though Shirtsleeve Sessions are open to the public, generally only Council and staff are present. Therefore it is important to have complete presentations at regular City Council meetings for the audience and listening viewers at home. She asked staff to clarify the policy versions.

Ms. Hamilton explained that staff has been reporting on and recommends Version A. Version B gives the option of a 1% set aside from development impact fees. Version C requires 2% only from the Capital Improvement Projects.

Council Member Hitchcock stated that she would prefer having more than three members on the Art Advisory Board.

Ms. Yvonne explained that in some circumstances the Art Advisory Board would have a subcommittee, which would conduct neighborhood meetings to collect information. A Request for Proposal would be sent to numerous artists. The subcommittee would make a recommendation to the Board, who would in turn vote on the final proposals, and then bring a recommendation to the City Council for final approval.

Mr. Flynn read from pages 1, 4, and 5 of the policy related to the art selection process.

Mr. Bartlam spoke in favor of the Art Advisory Board concept and pointed out that it allows for wider representation than is done in the City of Brea, where only the development community is involved in the art projects.

Mayor Pro Tempore Pennino expressed support for the Public Art Policy. He suggested that if additional members on the Art Advisory Board are desired, it may be advantageous to have one additional Arts Commission representative and one member from the Site Plan and Architectural Approval Committee.

PUBLIC COMMENT:

- Dennis Bennett stated that the Public Art Policy is indicative of a unified effort by different segments of the community representing varied interests. Mr. Bennett noted that he participated in meetings regarding the policy, as well as Jeffery Kirst and Kevin Sharrar, Executive Director of the Building Industry Association of the Delta. They recommend that Council approve policy Version A. He stated that the language in the policy should be very distinct regarding the precise Capital Improvement Projects, so that in the future there is no question as to the applicability of the proposal.
- Theo Vandenberg stated that she formerly served on the Arts Commission and was involved in the public art aspect of the bus shelter at Loel Center. She explained the process that they went through to select art for the project and urged Council to approve the Public Art Policy.
- Jeffery Kirst, President of Tokay Development Company, spoke on the importance of art as an icon for a community. He noted that prior to the proposed development impact fee increase the current cost was \$40,170 an acre – that is expected to be increased by 30%.

MOTION:

Council Member Land made a motion, Pennino second, to 1) adopt Resolution No. 2001-225 approving the Public Art Policy for the City of Lodi, and 2) increase the number of Art Advisory Board members from three to five members, by adding one additional representative from the Lodi Arts Commission and one representative from the Site Plan and Architectural Review Committee.

DISCUSSION:

Council Member Howard clarified that she enjoys art and appreciates the many beautiful landmarks and architectural features of buildings in Lodi. She reiterated her preference to address art projects on an individual basis, allowing Council to decide which fund it is best to come out of depending on the financial strength of the City and other factors at the time of consideration.

Council Member Hitchcock expressed concern about not changing the basis for impact fees to allow for public art. Under the proposed policy, it appears that the impact fees could run short unless there is a large variance. She recalled that Mr. Prima reported the 2% for public art would amount to \$2 million based upon impact fees. By not increasing the impact fees by 2% for public art, it appears to indicate that the impact fees are set up to overcharge by \$2 million. Addressing Mr. Prima, Ms. Hitchcock asked if this would become part of the Development Impact Fee update report. Ms. Hitchcock emphasized that she is in full support of the Public Art Policy; however, she wanted to be certain that there would not be a shortage in the impact fees.

Public Works Director Prima explained that the estimate of \$2 million was based on the cost of the projects as they are currently estimated over the entire life of the impact fee program. The projects as they are currently envisioned, include a substantial amount of contingencies. Some of the projects at this time are nothing more than a one- or two-line description of what is anticipated to be done – and from that, a dollar figure was assigned. Typically at the time projects are awarded, a 5% to 10% contingency is added to the cost. Mr. Prima stated that it is not unreasonable to say that there is a 2% “fudge factor” in the impact fee program.

Mayor Nakanishi stated that he was pleased that the policy was changed to allow Council to have final approval of the art projects. He also agreed with the guideline that states, “expressions of profanity, vulgarity, or obvious poor taste, are inappropriate.” The City Manager has assured him that taking 2% from impact fees will not deter the City from its objectives toward an Indoor Sports Complex, Aquatics Center, and new Animal Shelter.

Council Member Hitchcock addressed the City Attorney and pointed out that the resolution states in part, “be it further resolved that funding sources be derived from using Capital Improvement Project funds and 2% of the Development Impact Fees.” She asked why the percentage for Capital Improvement Project funds was not included.

City Attorney Hays replied that the percentage was intentionally omitted because under Federally funded projects up to 5% can be used.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Hitchcock, Land, Pennino and Mayor Nakanishi

Noes: Council Members – Howard

Absent: Council Members – None

- E-3 “Approve plans and specifications and authorize advertisement for bids for improvements to the National Guard Armory facility, 333 N. Washington Street”

Council Member Hitchcock expressed concern about spending \$85,000 for improvements to the National Guard Armory facility with only a one-year contract in place.

Parks and Recreation Director Baltz reported that out of the \$85,000, \$50,000 will come from Community Development Block Grant funding, and \$35,000 will come from the contingency fund. National Guard personnel have asked Mr. Baltz to contact them later next week to discuss the five-year lease process. Mr. Baltz read a portion of the permit from the National Guard, which reads in part, “The California military department intends to negotiate and enter into a five-year lease of the property with the City of Lodi for this property within one year. The military department desires that the Armory be continuously occupied by the military and the City of Lodi Parks and Recreation Department under a combined use program that promotes greater community recreational use.” Mr. Baltz stated that he was reassured today that it is their intent to enter into a five-year lease with the City.

Council Member Land expressed confidence that the National Guard would honor the agreement. He also noted that the City may receive \$35,000 to \$40,000 from the county toward this project.

MOTION / VOTE:

The City Council, on motion of Council Member Land, Pennino second, approved the plans and specifications for improvements to the National Guard Armory Facility, 333 N. Washington Street, and authorized advertisement for bids. The motion carried by the following vote:

Ayes: Council Members – Howard, Land, Pennino and Mayor Nakanishi

Noes: Council Members – Hitchcock

Absent: Council Members – None

- E-11 “Adopt resolution supporting Woodbridge Irrigation District Lower Mokelumne River Restoration Program and City participation in construction (\$50,000)”

Public Works Director Prima reported that five to eight years ago, various federal and state agencies involved in dealing with restoring fisheries around the state (including the Mokelumne River) had draft plans that called for the removal of various dams and other impediments to fish passage in rivers. Included in their plans for removal was the Woodbridge Irrigation District (WID) dam. In response, the City, Chamber of Commerce, and the WID showed strong support for the dam and maintaining and improving the facility. Since then the WID has been successful in obtaining grants for design work. They are currently ready to submit their final application for construction. It is estimated to cost \$20 million to replace the dam and fish ladder. WID is asking for the City's support, and staff recommends a \$50,000 financial commitment out of next year's Capital Improvement budget. There are tremendous benefits to the City in terms of flood control and recreational aspects. There is also potential for having Lodi Lake full year-round.

Mayor Pro Tempore Pennino suggested that this project be placed on the legislative priority list.

At the request of Mayor Nakanishi, Andy Christensen, Manager of Woodbridge Irrigation District, reported that it has received a total of \$2,575,000 from CalFed to do the studies. The WID board has voted to contribute \$300,000 into the fund. The project is to replace the dam and the fish ladder, and options that total over \$31 million. Mr. Christensen commented that the Mokelumne River produces more fish per acre-foot of water of any streams in the Sacramento basin.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Pennino, Hitchcock second, unanimously adopted Resolution No. 2001-226 supporting the Woodbridge Irrigation District Lower Mokelumne River Restoration Program and committed \$50,000 (fiscal year 2002/03) toward construction.

J. ORDINANCES

None.

K. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Howard stated that she enjoyed being a judge at the Kiddies Parade and participating in the Grape Festival Parade.
- Council Member Land reported that Lodi House is now one year old and has had 19 graduates from the program who have broken the cycle of homelessness. Lodi House will be having a fundraiser entitled “Harvest in the Grove” on October 14, from 3:00 p.m. to 6:00 p.m. It is being hosted by Omega Nu and will include wine tasting, hors d'oeuvres, artists, and

music. Mr. Land also commented that he enjoyed the Grape Festival Parade. He apologized for not attending the September 11 Shirtsleeve Session, noting that his son who works in Dallas had called him prior to the meeting to notify him of the terrorist attacks on New York and Washington D.C.

- Council Member Hitchcock thanked the Mayor for his idea of handing out U.S. flags at the Grape Festival Parade. She also thanked the Muslim community for their unity meeting this evening at the Boys and Girls Club. She expressed concern about postponing the Council meeting; however, she felt that the current circumstances justified it.
- Mayor Nakanishi thanked the City Clerk's Office and Cherokee Memorial Park for contributing flags for the Grape Festival Parade.
- Mayor Pro Tempore Pennino expressed condolences to the family of Jerry Hughes, General Manager for the San Joaquin Regional Transit District, who passed away this morning at age 54. He commented that San Joaquin County has lost two great transit supporters within the past twelve months – Mr. Hughes and Mr. Cabral.
- Mayor Nakanishi asked the Council for their interest in having a float in the Parade of Lights. The majority expressed that they already had previous commitments to participate in the event.

L. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- City Manager Flynn reported that a tour of the proposed peak power plant is planned for the next Shirtsleeve Session. He announced that Jeanie Biskup was recently awarded Volunteer of the Year by the Lodi Business and Professional Women's Association. Mr. Flynn also announced the following birthdays:
 - Council Member Howard – September 25
 - Charlene Lange – September 29
 - Vicky McAthie – September 30
 - Mike Pretz – October 2
 - Council Member Hitchcock – October 3

C-1 CALL TO ORDER / ROLL CALL

(NOTE: The following items were moved here from the beginning of the agenda.)

The City Council Closed Session meeting of September 19, 2001 was called to order by Mayor Nakanishi at 9:55 p.m.

Present: Council Members – Hitchcock, Howard, Land, Pennino and Mayor Nakanishi

Absent: Council Members – None

Also Present: City Manager Flynn, City Attorney Hays, and City Clerk Blackston

C-2 ANNOUNCEMENT OF CLOSED SESSION

- a) Actual litigation: Government Code §54956.9(a); one case; People of the State of California, and the City of Lodi, California v. M & P Investments, et al.; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM

C-3 ADJOURN TO CLOSED SESSION

At 9:58 p.m., Mayor Nakanishi adjourned the meeting to a Closed Session to discuss the above matter.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 11:00 p.m., Mayor Nakanishi reconvened the City Council meeting, and City Attorney Hays disclosed the following action.

In regard to item C-2(a), there was no reportable action taken by the City Council.

Continued September 19, 2001

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 11:00 p.m.

ATTEST:

Susan J. Blackston
City Clerk